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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA  
SIXTH APPELLATE DISTRICT

THE PEOPLE,

H026132

Plaintiff and Respondent,

(San Benito County  
Superior Court  
No. CRF01-41384)

v.

GILBERT FONTENETTE,

Defendant and Appellant.

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On December 12, 2001, defendant Gilbert Fontenette pleaded no contest to possession of stolen property (Pen. Code, § 496 [count 8]) and to being under the influence of a controlled substance (Health & Saf. Code, § 11550, subd. (a) [count 4].) After defendant agreed the trial court could consider at sentencing the vandalism offenses (Pen. Code, § 594, subd. (a)) charged in counts 6 and 7, the court dismissed counts 1 through 3 and 5 through 7. At sentencing, the trial court imposed a state prison sentence of six years, but it suspended execution of that sentence. Defendant was placed on probation for five years upon condition, inter alia, that he serve 180 days in county jail. Between June 6, 2002, and February 26, 2003, the probation department filed four petitions seeking to revoke defendant's probation. After defendant admitted the allegations in the first petition, namely, that he had tested

positive for methamphetamine and had failed to attend substance abuse counseling, probation was reinstated on the original terms. After defendant admitted the allegations in the second petition, namely, that he had committed a new felony offense by destroying a jail cell window, probation was reinstated on the original terms with an additional condition that defendant enroll and complete a six-month Salvation Army program. After defendant admitted the allegations in the third petition, namely, that he had failed to complete the Salvation Army program, probation was reinstated on the original terms with an additional condition that defendant enroll in and complete a “long term program.” After defendant admitted the allegations in the fourth petition, namely, that he had failed to enroll in a long term substance abuse program, had failed to participate in counseling, and had failed to pay a fine he owed, defendant was ordered to serve 60 days in county jail; as so modified, probation was reinstated.

On May 13, 2003, the probation department filed a petition seeking to revoke defendant’s probation. This petition was based upon an allegation that defendant had been arrested by the Hollister Police three days earlier for two felonies, willful infliction of corporal injury upon a spouse or cohabitant (Pen. Code, § 273.5) and false imprisonment (Pen. Code, § 236). After probation was summarily revoked and a contested hearing was held, defendant was found to be in violation of the terms of his probation. He was ordered to serve six years in state prison for count 8, and he received a concurrent county jail term of six months for count 4. Defendant filed a timely notice of appeal.

Appointed appellate counsel has filed an opening brief which states the case and the facts but raises no issues. Defendant was notified of his right to submit written argument on his own behalf but has failed to avail himself of the opportunity. Pursuant to *People v. Wende* (1979) 25 Cal.3d 436, we have reviewed the entire record and have concluded that there are no arguable issues on appeal.

The judgment is affirmed.

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Mihara, J.

WE CONCUR:

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Bamattre-Manoukian, Acting P.J.

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Wunderlich, J.